

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE MATTER OF:

PLEASANTON UNIFIED SCHOOL DISTRICT,

v.

PARENTS ON BEHALF OF STUDENT.

OAH CASE NUMBER 2024010574

ORDER GRANTING REQUEST FOR CONTINUANCE

APRIL 2, 2024

On March 28, 2024, Pleasanton Unified School District, called Pleasanton, filed a request to continue the due process hearing with the Office of Administrative Hearings, OAH. Student did not file a response.

Pleasanton contends the hearing should be continued to either April 4, 2024, or April 9, 2024, because Pleasanton's counsel is participating in another due process hearing that is currently underway and set to continue until at least April 3, 2024. Student did not file a response. The parties discussed the possible need for a continuance at the prehearing conference on March 22, 2024. Pleasanton's counsel provided a sworn declaration that Student's counsel did not object to the motion.

OAH must conduct a due process hearing and issue a decision within 45 days of receiving the due process complaint unless an extension is granted. (34 C.F.R. § 300.515(a); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3).) Resolving the due process hearing quickly is legally required. Hearings may only be continued if "good cause" is established. (Ed. Code, § 56505, subd. (f)(3).) OAH is guided by the Administrative Procedure Act and the California Rules of Court when ruling on continuance motions. (Cal. Code Regs., tit. 1, § 1020; Cal. Rules of Court, rule 3.1332.)

Good cause to continue a hearing may include:

- An essential lay or expert witness is unavailable because of death, illness, or other excusable circumstances;
- A party is unavailable because of death, illness, or other excusable circumstances;
- A party's attorney is unavailable because of death, illness, or other excusable circumstances;
- A new attorney substitutes in, but only if the party establishes that the substitution is required in the interests of justice;
- A new party is added, and the new party has not had a reasonable opportunity to prepare for trial, or other parties have not had a reasonable opportunity to prepare for trial regarding the new party's involvement;
- A party is unable to obtain essential testimony, documents, or other material evidence despite diligent efforts; or
- The case has a significant and unexpected change which makes the case not ready for trial.

Generally, continuances are disfavored. (Cal. Rules of Court, rule 3.1332(c).)

Pleasanton established good cause to continue the due process hearing. Due process hearings that are underway generally take precedence over hearings that are yet to begin. In this instance, Pleasanton's counsel's participation in the other due process hearing is good cause to continue this matter to April 9, 2024.

The request is granted. All previously scheduled dates are vacated. The new dates are:

DUE PROCESS HEARING will be held on April 9, through April 11, 2024.

The due process hearing will be held by videoconference or telephone, unless otherwise ordered. The due process hearing will begin at 9:30 AM on all days, and generally end at 3:30 PM, unless otherwise ordered. The hearing will continue day to day, as needed, Mondays and Fridays included, at the discretion of the Administrative Law Judge. Prehearing conference statements and motions are due to OAH no later than three business days before the prehearing conference. Late motions will only be considered if good cause is established for the late filing.

The parties must immediately give potential witnesses the hearing dates, and must subpoena witnesses, if necessary, so they are available to testify. Failing to properly notify or subpoena a witness is not good cause to delay the hearing.

IT IS SO ORDERED.

Ashok Pathi

Ashok Pathi

Administrative Law Judge

Office of Administrative Hearings